IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

WP(C).No. 18617 of 2005(N)

AGAINST THE ORDER DATED IN I.A.NO. 22/2004 IN AS.8/2004 OF DISTRICT COURT, PATHANAMTHITTA.

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PETITIONER:

BHARGAVAN PILLAI, SANTHA COTTAGE,
PAYEEKUZHI MURI, PERINAL VILLAGE,
KARUNAGAPPALLY.

BY ADV. SRI.K.SASIKUMAR.

RESPONDENTS:

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1. **CHERIYAN E. MATHEW,**
   ELANGICKAL HOUSE, KEEKOZHOOR MURI,
   CHERUKOLE VILLAGE, RANNI.

2. **LISSY MAVELIL DANIEL, ELANGICKAL HOUSE**
   KEEKOZHOOR MURI, CHERUKOLE VILLAGE, RANNI
   RESPONDENTS 1 & 2 REPRESENTED BY THIER POWER OF
   ATTORNEY HOLDER M.M. DANIEL, MAVELIL,
   KIZHAKKUPURAM, ATTACHAKAL MURI,
   KONNITHAZHAM VILLAGE.

3. **PONNAMMA, D/O. KAMALAKSHYAMMA,**
   T.C.43/449 (1) SMRITHI, NAMBI GARDEN,
   KAMALESWARAM, MANNAKKADU, THIRUVANANTHAPURAM.

4. **RAMESH KUMAR, S/O. RAVI,**
   T.C.43/449 (1) SMRITHI, NAMBI GARDEN,
   KAMALESWARA, MANNAKKADU, THIRUVANANTHAPURAM.

W.P.(C). NO.18617/2005:

5. BINDU, D/O. RAVI, T.C.43/449 (1)
SMRITHI, NAMBI GARDEN, KAMALESWARAM, MANNAKKADU,
THIRUVANANTHAPURAM.

6. RAJESH, S/O. RAVI, T.C.43/449 (1),
SMRITHI, NAMBI GARDEN, KAMALESWARAM, MANNAKKADU,
THIRUVANANTHAPURAM.

7. RATHEESH, S/O. RAVI, T.C.43/449 (1)
SMIRITHI, NAMBI GARDEN, KAMALESWARAM,
MANNAKKADU, THIRUVANANTHAPURAM.

BY ADV. SRI.M.NARENDRA KUMAR,
SMT.LEENA KRISHNAN,
SRI.M.V.S.NAMBOOTHIRY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.18617/2005:

APPENDIX

PETITIONER'S EXHIBITS & ANNEXURE:

EXT.P.1: COPY OF THE SALE CERTIFICATE DTD. 14/07/1992 OF THE SUB COURT, PATHANAMTHITTA.

EXT.P.2: COPY OF THE JUDGMENT DTD. 31/01/2002 IN A.S. 91/92.

EXT.P.3: COPY OF THE AFFIDAVIT IN I.A. 11/04 IN UNNUMBERED R.S.A/04 OF THIS HONOURABLE COURT.

EXT.P.4: COPY OF THE JUDGMENT DTD. 29/06/2002 IN O.S. 253/99 OF THE MUNSIFF'S COURT, PATHANAMTHITTA.

EXT.P.5: COPY OF THE ORDER DTD. 26/10/2004 IN I.A. 22/04 IN A.S. 8/2004.

ANNEXURE-I: COPY OF THE PLAINT IN O.S. NO. 545/2003 DT. 22/11/2003.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

PIUS C. KURIAKOSE, J.

.....

W.P.(C)No.18617 OF 2005

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DATED THIS THE 3RD JULY, 2007

J U D G M E N T

I do not find any warrant for exercising the supervisory jurisdiction of this Court on Ext.P5 order by which the court of first appeal has granted leave to respondents 1 and 2 for preferring appeal against the judgment and decree in O.S.No.253 of 1999 of Munsiff's Court, Pathanamthitta. It is beyond dispute that respondents 1 and 2 were not parties to the suit. The court of appeal noticed in Ext.P5 that they are having certain interest in the subject-matter of the suit and rightly granted leave. In fact, I find that the principles of law laid down by the Supreme Court in **Jatan Kanwar v. Golcha Properties** (AIR 1971 SC 374) were relied on by the learned District Judge in support of the decision in Ext.P5. The challenge against Ext.P5 is liable to be repelled. The Writ Petition will stand dismissed. The learned District Judge is directed to take up the appeal preferred by respondents 1 and 2 at the earliest, hear the petitioner and all other parties to the appeal and dispose of the same on its merits and in accordance with law, at the earliest and at any rate within three months of receiving copy of this judgment. The petitioner will be

permitted by the learned District Judge to urge all the grounds which he has urged in this Writ Petition, in the appeal.

(PIUS C.KURIAKOSE, JUDGE)

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